

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CORDNEY SMITH,

Petitioner,

v.

CASE NO. 12-11036

HONORABLE DENISE PAGE HOOD

CARMEN PALMER,

Respondent.

**ORDER DENYING MOTION FOR CERTIFICATE OF APPEALABILITY
AND
MOOTING APPLICATION TO PROCEED WITHOUT PREPAYING FEES**

This matter is before the Court on an Application to Proceed Without Paying Fees and Motion for Certificate of Appealability filed by Petitioner Cordney Smith. (Doc. Nos. 26, 27) The Court issued its Judgment and Order dismissing the habeas petition on September 29, 2015. (Doc. Nos. 23, 24) Petitioner filed a Notice of Appeal on October 23, 2015. (Doc. No. 25) In its Order, the Court declined to issue a certificate of appealability, but granted any request to proceed on appeal without prepaying fees and costs.

Petitioner's motion seeks reconsideration of the Court's determination that Petitioner is not entitled to a certificate of appealability. E.D. Mich. Local Rule

7.1(h) allows a party to file a motion for reconsideration. A motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. E.D. Mich. LR 7.1(h); *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). The movant must not only demonstrate a palpable defect by which the court and the parties have been misled but also show that a different disposition of the case must result from a correction thereof. *Id.* A palpable defect is a defect that is obvious, clear, unmistakable, manifest, or plain. *Witzke v. Hiller*, 972 F. Supp. 426, 427 (E.D. Mich. 1997). As this Court explained in its Order, to warrant a grant of a certificate of appealability, “[t]he petitioner must demonstrate that reasonable jurists would find the district court’s assessment of the constitutional claims debatable or wrong.” *Slack v. McDaniel*, 529 U.S. 473 (2000). There is no palpable defect on the Court’s prior order. Petitioner’s motion raises the same issues already ruled upon by the Court, either expressly or by reasonable implication. Petitioner is not entitled to reconsideration of the Court’s order to decline issuing a certificate of appealability.

Accordingly,

IT IS ORDERED that Petitioner’s Motion for Certificate of Appealability (**Doc. No. 27**) is DENIED for the reasons set forth above and in its September 29,

2015 Order. A certificate of appealability will not issue in this case.

IT IS FURTHER ORDERED that the Application to Proceed Without Praying Fees or Costs on Appeal (**Doc. No. 26**) is MOOT, the Court having previously granted any such request in its September 29, 2015 Order.

S/Denise Page Hood
DENISE PAGE HOOD
United States District Judge

Dated: November 3, 2015

I hereby certify that a copy of the foregoing document was served upon counsel of record on November 3, 2015, by electronic and/or ordinary mail.

S/Kelly Winslow for LaShawn R. Saulsberry
Case Manager Generalist